

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 4
Mtg. Date October 6, 2015
Dept. City Attorney

Item Title: **Ordinance No. 433 - Changes to Titles 2, 12, 13 & 15 of the Lemon Grove Municipal Code to refocus planning authority from the Planning Commission to the City Council**

Staff Contact: James P. Lough, City Attorney

Recommendation:

1. Introduce and conduct the first reading by title only of Ordinance No. 433 (**Attachment B**) adopting various changes to Lemon Grove Municipal Code Titles 2, 12, 13, and 15 to place planning authority with the City Council).
2. Authorize the City Attorney to prepare a summary for publication and set the matter for second reading and adoption on October 20, 2015.

Item Summary:

The City Council has given direction to Staff to prepare ordinance changes to the municipal code to re-task the Planning Commission into a Community Advisory Commission with permanent and temporary members. Excluding the changes to the Chapter 2.08, this is the first set of generic ordinance changes to Titles 2, 12, 13 and 15 of the Lemon Grove Municipal Code.

Fiscal Impact:

None

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report
- B. Ordinance No. 433 – Changes to portions of Titles 2, 12, 13 & 15 Clean & Strike
- C. Clean & Strike Out/Underline LGMC Chapter 2.04 Council-Manager
- D. Clean & Strike Out/Underline LGMC Chapter 12.10 Public Streets
- E. Clean & Strike Out/Underline LGMC Chapter 13.32 Construction Debris
- F. Clean & Strike Out/Underline LGMC Chapter 15.44 Moving Buildings

Attachment A

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 4

Mtg. Date October 6, 2015

Item Title: **Ordinance No. 433 - Changes to Titles 2, 12, 13 & 15 of the Lemon Grove Municipal Code to refocus planning authority from the Planning Commission to the City Council)**

Staff Contact: James P. Lough, City Attorney

Discussion:

Background

On September 15, 2015, the City Council adopted an Ordinance to assign Planning Commission jurisdiction to the City Council and establish the City Council as the City's primary Planning Agency. Changes need to be made throughout the Municipal Code to eliminate references to the Planning Commission and to make sure that it is clear that the City Council has authority over various planning agency matters.

Analysis:

The attachments ("C" – "F") to the Ordinance are four Chapters that cover all references to the Planning Commission in Titles 2, 12, 13 and 15 of the Lemon Grove Municipal Code (LGMC). This Ordinance updates those references to cover the shift in legal authority from the Planning Commission to the City Council.

LGMC Chapter 2.04 (**Attachment D**) governs the City Council-City Manager relationship. This Chapter establishes the Office of City Manager and delegates management to the Manager of day-to-day operations of the City. The changes contained in **Attachment D** are clerical and remove references to the Planning Commission regarding responsibilities of the City Manager. It also expands authority of the City Manager to include liaisons to focus groups and other permanent and temporary bodies that the City Council may form.

LGMC Chapter 12.10 (**Attachment E**) governs Public Streets, Dedications and Improvements. The changes here are clerical and redirect authority to the City Council. LGMC Chapter 13.32 (**Attachment F**) governs Construction and Demolition Debris. The changes here clerical and redirect authority to the City Council. LGMC Chapter 15.44 (**Attachment G**) governs moving and storage of buildings. The changes here clerical and redirect authority to the City Council.

The Staff will return with more changes to the Zoning, Subdivisions and the Citywide Regulation Titles. Each will follow the same format as this Agenda Item unless otherwise directed by the City Council.

The Commission shall have all of the powers and duties established by state law, ordinances and resolutions, which the Council may enact. The City Council, acting as the Planning Commission in all matters, may delegate to the Commission advisory functions on a case-by-case basis by Resolution. It is the duty of the Commission to advise the City Council upon the amendment or revision of the General Plan when requested by the City Council.

Attachment A

Environmental Impact:

Pursuant to Public Resources Code Section 21065, this action does not constitute a “project” within the meaning of CEQA. The action has no potential to cause either a direct change in the environment, or a reasonably foreseeable indirect physical change in the environment, and therefore does not require environmental review.

Conclusion:

Based on previous direction given by the City Council, staff recommends that the City Council introduce Ordinance No. 433 by title and allow the publication of a Summary of the Ordinance in a newspaper of general circulation.

ORDINANCE NO. 433

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA
AMENDING SECTIONS 2.04.070, 12.10.010, 12.10.040, 13.32.160, 15.44.010, 15.44.030 &
15.44.050 OF THE LEMON GROVE MUNICIPAL CODE TO REASSIGN PLANNING DUTIES
TO THE CITY COUNCIL**

WHEREAS, the City Council of the City of Lemon Grove adopted an Ordinance to create the Community Advisory Commission; and

WHEREAS, the action to create the Community Advisory Commission will require that the City Council become the City of Lemon Grove Planning Agency under the general laws of the State of California; and

WHEREAS, this Ordinance reassigns Planning Commission duties to the City Council and clarifies the roles of City officers in planning matters related to City Council-City Manager authority; Public Streets, Dedications and Improvements; Construction and Demolition Debris; and Moving and Storage of Buildings in the Lemon Grove Municipal Code to be consistent with the reassignment of authority from the Planning Commission to the City Council; and

NOW THEREFORE, the City Council of the City of Lemon Grove does ordain as follows;

1. Lemon Grove Municipal Code Section 2.04.070 is amended to read as shown in Attachment C, which is attached hereto and incorporated herein by reference as though fully set forth herein.
2. Lemon Grove Municipal Code Sections 12.10.010 and 12.10.040 are amended to read as shown in Attachment D, which is attached hereto and incorporated herein by reference as though fully set forth herein.
3. Lemon Grove Municipal Code Section 13.32.160 is amended to read as shown in Attachment E, which is attached hereto and incorporated herein by reference as though fully set forth herein.
4. Lemon Grove Municipal Code Sections 15.44.010, 15.44.030 and 15.44.050 are amended to read as shown in Attachment F, which is attached hereto and incorporated herein by reference as though fully set forth herein.

INTRODUCED by the City Council on October 6, 2015. **PASSED AND ADOPTED** by the City Council of the City of Lemon Grove, State of California, on October 20, 2015 by the following vote:

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COUNCIL MANAGER

2.04.070 Internal relations.

A. Council-Manager Relations. The City Council and its members shall deal with the administrative services of the City only through the City Manager, except for the purpose of inquiry, and neither the City Council nor any member thereof shall give orders or instructions to any subordinates of the City Manager. The City Manager shall take his orders and instructions from the City Council only when sitting in a duly convened meeting of the City Council and no individual council member shall give any orders or instructions to the City Manager.

B. Departmental Cooperation. It shall be the duty of all subordinate officers and the City Clerk, City Treasurer, and City Attorney to assist the City Manager in administering the affairs of the City efficiently, economically and harmoniously.

C. Attendance at Commission Meetings. The City Manager may attend any meetings of the Community Advisory Commission or any other City Council formed group, upon the City Manager's own volition or upon direction of the City Council. At such meetings, which the City Manager attends, he shall be heard by such City Council formed groups as to all matters upon which the City Manager wishes to address the members thereof, and City Manager shall inform said members as to the status of any matter being considered by the City Council. The City Manager shall cooperate to the fullest extent with the members of all groups formed by the City Council. (Ord. No. 433, §1, 2015; Ord. 10 § 8, 1977).

2.04.070 Internal relations.

A. Council-Manager Relations. The city council and its members shall deal with the administrative services of the city only through the city manager, except for the purpose of inquiry, and neither the city council nor any member thereof shall give orders or instructions to any subordinates of the city manager. The city manager shall take his orders and instructions from the city council only when sitting in a duly convened council meeting ~~of the city council, and no~~ individual council member ~~councilman~~ shall give any orders or instructions to the city manager.

B. Departmental Cooperation. It shall be the duty of all subordinate officers and the city clerk, city treasurer, and city attorney to assist the city manager in administering the affairs of the city efficiently, economically and harmoniously.

C. Attendance at Commission Meetings. The city manager may attend any and all meetings of ~~the planning commission, recreation and park commission, and any other~~ commissions, boards, task force, focus group or committees (collectively "advisory body") created by the city council, upon the manager's ~~his~~ own volition or upon direction of the city council. At such meetings, which the city city manager attends, he shall be heard by such the advisory body commissions, boards or committees as to all matters upon which the he city manager wishes to address the members thereof, and he shall inform said members as to the status of any matter being considered by the city council. The city manager, and he shall cooperate to the fullest extent fully with the members of all advisory bodies commissions, boards or committees appointed created by the city council. (Ord. 433 § 2, 2015; Ord. 10 § 8, 1977)

PUBLIC STREETS, DEDICATIONS AND IMPROVEMENTS

12.10.010 Findings, purpose and intent.

A. The City Council finds as follows:

1. There is a lack of adequate curbs, gutters, sidewalks and street lights in various areas of the city, which are necessary to provide a safe environment for pedestrians; and
2. The lack of improved sidewalks in the city in many instances forces pedestrians, including school children to walk in the streets; and
3. Streets of inadequate width and improvements hinder safety and efficient vehicular movement; and
4. The lack of curbs, storm drains and other public street improvements results in poor drainage and degrades water quality; and
5. The lack of improved streets impedes the operation of emergency vehicles as well as street sweepers and refuse collection vehicles.

B. It is the purpose of the City Council in adopting the provisions of this chapter to:

1. Impose reasonable requirements for the dedication of real property for public street purposes and for the installation of public street improvements upon persons engaged in the development, construction, reconstruction or remodeling of buildings which tend to result in increased demands upon the existing public streets in the city, thereby adversely impacting the public health, safety and welfare; and
2. Extend the public street dedication and improvement requirements of the Subdivision Map Act by establishing standards and requirements for public street dedication and improvements in connection with the development of land in which no subdivision is involved; and
3. Spread the cost of public street improvements upon all properties abutting public streets in an equitable manner, and by causing the installation of those improvements required by the city to serve property being developed.

C. The provisions of this chapter are intended to be in addition to any other requirement of law pertaining to the provisions of public street dedication and improvements, and nothing in this chapter shall be construed to avoid compliance with any other requirement for the provisions of public street improvements.

D. The requirements of Sections 12.10.060 (Public street improvements), 12.10.080 (Undergrounding and relocating existing utility facilities), 12.10.090 (Street lights required) and 12.10.100 (Street trees required) shall not be applicable to projects located within any commercial or industrial zone, pursuant to the city zoning map, for a period of one year of the effective date of the ordinance codified in this section. Notwithstanding, any other provision herein, the city manager may impose the requirements listed above based upon a finding that to waive the requirements would constitute a threat to public safety or would constitute a significant environmental impact as defined under the California Environmental Quality Act. Any finding of the city manager to grant or deny a waiver under this subsection shall be appealable to the city council for the permit requested. Nothing herein shall be construed to waive a federal or state legal requirement. This exception to the

Attachment D

requirements of portions of this chapter shall not be applicable to residential projects regardless of where they are located. This subsection shall sunset and be no longer in effect after January 3, 2014. (Ord. 433 § 2, 2015; Ord. 414 § 2, 2013; Ord. 408 § 2, 2011; Ord. 397 § 2, 2011; Ord. 358 § 1, 2006)

12.10.040 Waivers and modifications.

The city engineer with the concurrence of the development services director or upon appeal to the city council, the city engineer, or city council may grant a waiver or modification of the provisions of this chapter if all of the following findings are made:

1. Existing streets and systems for drainage which are intended to serve the site are adequate to accommodate the additional burdens imposed by the proposed project;
2. The proposed improvements will fit harmoniously into and will have no adverse effects upon the adjacent or surrounding area;
3. The waiver or modification will produce an environment of sustained desirability and stability, harmonious with the character of the surrounding area;
4. The waiver or modification will not become detrimental to the public interest, health, safety, convenience or general welfare; and
5. The strict interpretation and enforcement of the provisions of this chapter will create one of the following:
 - a. A public nuisance,
 - b. A public safety hazard, or
 - c. A conflict or inconsistency with the Lemon Grove Municipal Code, the Lemon Grove General Plan or an adopted specific plan, roadway plan, improvement plan or city council ordinance or policy. (Ord. 433 § 2, 2015; Ord. 358 § 1, 2006)

PUBLIC STREETS, DEDICATIONS AND IMPROVEMENTS

12.10.010 Findings, purpose and intent.

A. The City Council finds as follows:

1. There is a lack of adequate curbs, gutters, sidewalks and street lights in various areas of the city, which are necessary to provide a safe environment for pedestrians; and
2. The lack of improved sidewalks in the city in many instances forces pedestrians, including school children to walk in the streets; and
3. Streets of inadequate width and improvements hinder safety and efficient vehicular movement; and
4. The lack of curbs, storm drains and other public street improvements results in poor drainage and degrades water quality; and
5. The lack of improved streets impedes the operation of emergency vehicles as well as street sweepers and refuse collection vehicles.

B. It is the purpose of the ~~C~~city ~~C~~council in adopting the provisions of this chapter to:

1. Impose reasonable requirements for the dedication of real property for public street purposes and for the installation of public street improvements upon persons engaged in the development, construction, reconstruction or remodeling of buildings which tend to result in increased demands upon the existing public streets in the city, thereby adversely impacting the public health, safety and welfare; and
2. Extend the public street dedication and improvement requirements of the Subdivision Map Act by establishing standards and requirements for public street dedication and improvements in connection with the development of land in which no subdivision is involved; and
3. Spread the cost of public street improvements upon all properties abutting public streets in an equitable manner, and by causing the installation of those improvements required by the city to serve property being developed.

C. The provisions of this chapter are intended to be in addition to any other requirement of law pertaining to the provisions of public street dedication and improvements, and nothing in this chapter shall be construed to avoid compliance with any other requirement for the provisions of public street improvements.

D. The requirements of Sections 12.10.060 (Public street improvements), 12.10.080 (Undergrounding and relocating existing utility facilities), 12.10.090 (Street lights required) and 12.10.100 (Street trees required) shall not be applicable to projects located within any commercial or industrial zone, pursuant to the city zoning map, for a period of one year of the effective date of the ordinance codified in this section. Notwithstanding, any other provision herein, the city manager may impose the requirements listed above based upon a finding that to waive the requirements would constitute a threat to public safety or would constitute a significant environmental impact as defined under the California Environmental Quality Act. Any finding of the city manager to grant or deny a waiver under this subsection shall be appealable to the ~~planning commission~~city council and/or the city council as is appropriate for the permit requested. Nothing herein shall be construed to waive a federal or state legal requirement. This exception to the requirements of portions of this chapter shall not be applicable to residential projects regardless of where they are located. This subsection shall sunset and be no longer in effect after January 3, 2014. (Ord. 433 § 2, 2015; Ord. 414 § 2, 2013; Ord. 408 § 2, 2011; Ord. 397 § 2, 2011; Ord. 358 § 1, 2006)

12.10.040 Waivers and modifications.

The city engineer with the concurrence of the ~~community development~~development services director or upon appeal to the ~~planning commission~~ or city council, the city engineer, ~~planning commission~~ or city council may grant a waiver or modification of the provisions of this chapter if all of the following findings are made:

1. Existing streets and systems for drainage which are intended to serve the site are adequate to accommodate the additional burdens imposed by the proposed project;

Attachment D

2. The proposed improvements will fit harmoniously into and will have no adverse effects upon the adjacent or surrounding area;

3. The waiver or modification will produce an environment of sustained desirability and stability, harmonious with the character of the surrounding area;

4. The waiver or modification will not become detrimental to the public interest, health, safety, convenience or general welfare; and

5. The strict interpretation and enforcement of the provisions of this chapter will create one of the following:

a. A public nuisance,

b. A public safety hazard, or

c. A conflict or inconsistency with the Lemon Grove Municipal Code, the Lemon Grove General Plan or an adopted specific plan, roadway plan, improvement plan or city council ordinance or policy. (Ord. 433 § 2, 2015; Ord. 358 § 1, 2006)

CONSTRUCTION AND DEMOLITION DEBRIS

13.32.160 Appeal.

Appeal of a determination made under this chapter shall be made to the city council pursuant to Lemon Grove Municipal Code Section 17.28.090(C), except that where applicable, the words “Development Services Director” shall be replaced by “the WMP compliance official.” Appeals shall be limited to whether the owner made a good faith effort to comply with the WMP, and/or whether the amount of the deposit refunded was proper under this chapter. (Ord. 433 § 3, 2015; Ord. 399 § 1, 2011)

CONSTRUCTION AND DEMOLITION DEBRIS

13.32.160 Appeal.

~~—Appeal of a determination made under this chapter shall be made to the city council pursuant to Lemon Grove Municipal Code Section 17.28.090(C), except that where applicable, the words “planning commission” or “Development Services Directorplanning director” shall be replaced by “the WMP compliance official.” Appeals shall be limited to whether the owner made a good faith effort to comply with the WMP, and/or whether the amount of the deposit refunded was proper under this chapter. (Ord. 433 § 3, 2015; Ord. 399 § 1, 2011)~~

MOVING AND STORAGE OF BUILDINGS

15.44.010 Permits required.

No person shall move any building or structure which is to be placed, stored or temporarily located upon any property within the city until there has been first obtained a permit issued pursuant to Chapter 15.08 authorizing the moving and placement of the building or structure on property within the city or a permit issued pursuant to this article authorizing the moving of such building or structure to a storage yard or temporary location approved by the city council pursuant to Section 15.44.040 or approved by the City Council pursuant to the zoning ordinance.

(Ord. No. 433, §4, 2015; Prior code § 54.101)

15.44.030 Approval of site—Required.

No building or structure shall be stored on any property or placed temporarily on any property in the city unless such property has been approved by the city council as a site for such storage or temporary location pursuant to Section 15.44.040, or has been approved by the City Council as a site for such storage or temporary location pursuant to the zoning ordinance. (Ord. No. 433, §4, 2015; Prior code § 54.201)

15.44.050 Issuance of permit—Bond required.

Upon approval by the city council pursuant to Section 15.44.040 or upon approval of the City Council pursuant to the zoning ordinance of a site for use as a storage yard or temporary location for moved buildings or structures, the building inspector may issue a permit authorizing the moving to such storage yard or temporary location of one or more buildings or structures provided that there is filed with the building inspector a bond in the sum of five thousand dollars for each such storage yard or temporary location. The bond shall be executed by the person, firm, partnership or corporation applying for the permit pursuant to this section and by a surety company authorized to do business in the state, shall be joint and several as to liability, shall inure to the benefit of the city, and shall be conditioned upon the removal from the storage yard or temporary location within a period of one year from the date of issuance of the permit of all such buildings and structures so moved on to the storage yard or temporary location. The bond shall be filed with the building inspector prior to the time the permit is issued. No such building or structure moved onto such storage yard or temporary location shall be used or occupied at such storage yard or temporary location. (Ord. No. 433, §4, 2015; Prior code § 54.203)

MOVING AND STORAGE OF BUILDINGS (REDLINE)

15.44.010 Permits required.

No person shall move any building or structure which is to be placed, stored or temporarily located upon any property within the city until there has been first obtained a permit issued pursuant to Chapter 15.08 authorizing the moving and placement of the building or structure on property within the city or a permit issued pursuant to this article authorizing the moving of such building or structure to a storage yard or temporary location approved by the city council pursuant to Section 15.44.040 or approved by the ~~city planning commission or c~~City Council pursuant to the zoning ordinance.

(~~Ord. No. 433, §4, 2015;~~ Prior code § 54.101)

Attachment F

15.44.030 Approval of site—Required.

No building or structure shall be stored on any property or placed temporarily on any property in the city unless such property has been approved by the city council as a site for such storage or temporary location pursuant to Section 15.44.040, or has been approved by the ~~city planning commission or city~~ Council as a site for such storage or temporary location pursuant to the zoning ordinance. (Ord. No. 433, §4, 2015; Prior code § 54.201)

15.44.050 Issuance of permit—Bond required.

Upon approval by the city council pursuant to Section 15.44.040 or upon approval of the ~~city planning commission or city~~ Council pursuant to the zoning ordinance of a site for use as a storage yard or temporary location for moved buildings or structures, the building inspector may issue a permit authorizing the moving to such storage yard or temporary location of one or more buildings or structures provided that there is filed with the building inspector a bond in the sum of five thousand dollars for each such storage yard or temporary location. The bond shall be executed by the person, firm, partnership or corporation applying for the permit pursuant to this section and by a surety company authorized to do business in the state, shall be joint and several as to liability, shall inure to the benefit of the city, and shall be conditioned upon the removal from the storage yard or temporary location within a period of one year from the date of issuance of the permit of all such buildings and structures so moved on to the storage yard or temporary location. The bond shall be filed with the building inspector prior to the time the permit is issued. No such building or structure moved onto such storage yard or temporary location shall be used or occupied at such storage yard or temporary location. (Ord. No. 433, §4, 2015; Prior code § 54.203)